

avoid delay in getting a decision from the High Court on the question of law involved. Mr. Jagan Nath, who appeared as *amicus curiæ* before me, asked me to order the release of those other persons also, but as the records of their cases are not before me, I am not, at present, in a position to express any opinion on them. The learned Sessions Judge, at the close of his judgment, has indicated the action which he proposes to take in the matter, and the course suggested by him is in accordance with law and is eminently reasonable and proper.

A. N. C.

Convictions quashed.

APPELLATE CRIMINAL.

Before Bhide J.

CHUNI LAL—Appellant

versus

THE CROWN—Respondent.

Criminal Appeal No. 989 of 1930.

Indian Penal Code, 1860, section 124-A—Intention—a necessary ingredient—Pamphlet printed in absence of accused (the proprietor of the Press)—Knowledge of contents—whether may be presumed—Press and Registration of Books Act, XXV of 1867, section 7.

Held, that it is well established that “intention” is an essential ingredient of the offence under section 124-A, Indian Penal Code, and the requisite “intention” cannot be attributed to a person, accused under that section, if he was not even aware of the contents of the seditious publication.

Held also, that the initial presumption of knowledge of all the matter printed at the Press under section 7 of the Press and Registration of Books Act, XXV of 1867, is not applicable to the case of a pamphlet like the one forming the subject matter of this prosecution.

1931

ROSHAN LAL

v.
THE CROWN.

TEK CHAND J.

1931

Jan. 5.

1931

CHUNI LAL
v.
THE CROWN.

The convict in this case was the declared proprietor, keeper and printer of a Press at Multan and was convicted of an offence under section 124-A, Indian Penal Code, for publishing a pamphlet containing seditious matter. It was found by the High Court that the convict was absent from Multan when the pamphlet was sent to the Press for publication, and there was no evidence to show that he was aware of the contents of the pamphlet, beyond the fact that he was the declared proprietor and keeper of the Press.

Held, that the requisite "intention" under section 124-A, Indian Penal Code, not having been established in this case, the conviction must be set aside.

Emperor v. Pitre (1), *Emperor v. Phanendra Nath* (2), and *Emperor v. Muhammad Siraj* (3), relied upon.

Appeal from the order of Rai Sahib Lala Nand Lal, Manchanda, Additional District Magistrate, Multan, dated the 25th April 1930, convicting the appellant.

BADRI DAS, for Appellant.

Diwan RAM LAL, Assistant Legal Remembrancer, for Respondent.

BHIDE J.

BHIDE J.—The appellant Chuni Lal, who is the proprietor and printer of a press, called the Multan Electric Press, has been convicted under Section 124-A, Indian Penal Code, for publishing a pamphlet entitled "Shaida-i-Wattan" printed at that press and has been sentenced to a fine of Rs. 500 only. The appellant had pleaded that he was away from Multan when the pamphlet was printed, and that he had no knowledge of its contents. This plea was, however, not held to be proved and the appellant was convicted and sentenced as stated above.

(1) (1923) I.L.R. 47 Bom. 438, 446, 447; (2) (1908) I.L.R. 35 Cal. 945.

(3) (1929) 30 Cr. L. J. 201.

The learned counsel for the appellant has not attempted to dispute that the contents of the pamphlet fall under section 124-A, Indian Penal Code. The main contention raised by him was that the plea of the appellant that he was away from Multan was established by good evidence and should not have been rejected. The appellant produced two of his relations who knew of his visit to Lahore. He was actually putting up with one of them. I would not have attached much importance to this evidence, if it had stood alone. But the evidence is supported by the statement of one of the prosecution witnesses, Gopi Ram, agent for motor lorries. This witness has deposed that six or seven days before Christmas 1929 he saw the appellant along with other Congress Volunteers at the railway station Multan as they were about to leave for Lahore, and that the appellant told him that he was going to Lahore to attend the Congress. The fact that certain volunteers left Multan to attend the Congress some 6 or 7 days before Christmas is admitted even by Inspector Warburton (P. W. 1). Gopi Ram appears to be a disinterested witness and I am unable to find any good reason for disbelieving his evidence. The pamphlet in question was admittedly sent to the press for publication on the 23rd of December 1929 and there is no other evidence to show that the appellant was aware of its contents.

The only point which requires consideration in the circumstances is whether the appellant is liable under section 124-A as a printer, even if he were absent from Multan and was not actually aware of the contents of the pamphlet. The learned counsel for the appellant has cited *Emperor v. Pitre* (1), *Emperor v.*

1931

CHUNI LAL
v.
THE CROWN.

BHIDE J.

1931
 CHUNI LAL
 v.
 THE CROWN.
 BHIDE J.

Shankar Shrikrishna Dev (1), *Emperor v. Muhammad Siraj* (2), and *Chellam Pillai v. Emperor* (3), in support of his contention that the appellant cannot be held liable unless it is proved that he had knowledge of the contents of the pamphlet.

It is now well established that 'intention' is an essential ingredient of the offence under section 124-A, Indian Penal Code, and it is obvious that a person accused of an offence under that section cannot be attributed the requisite 'intention' if he was not even aware of the contents of the alleged seditious publication. The accused in the present case is, no doubt, the declared proprietor and keeper of the press, but this fact would not by itself, be sufficient to prove that he had knowledge of all the matter printed at the press. In the case of periodicals an initial presumption as regards such knowledge might be raised under section 7 of the Press and Registration of Books Act (Act XXV of 1867). But no such presumption arises in the case of a pamphlet like the one which forms the subject matter of this prosecution. The fact that the appellant is the declared keeper of the press can, therefore, be only taken into consideration along with other circumstances in coming to a decision as to whether the appellant had any knowledge of the contents of the pamphlet [*vide Emperor v. Pitre* (4)]. In the present instance, I see no good reason to disbelieve the plea, that the appellant was absent from Multan at the time of the publication of the pamphlet. There is no evidence to show that he had any knowledge of the pamphlet before its publication. The matter might have been different if there was any evidence to suggest

(1) (1910) 12 Bom. L. R. 675. (3) 1923 A. I. R. (Rang.) 276.

(2) (1929) 30 Cr. L. J. 201. (4) (1923) I. L. R. 47 Bom. 438, 446, 447.

that he absented himself in bad faith, *i.e.* in order to evade responsibility, knowing that the pamphlet was going to be printed at his press—[*vide Emperor v. Phanendra Nath* (1) and *Emperor v. Muhammad Siraj* (2)]. But there is no such evidence in the present case. As stated already, the pamphlet in question was sent to the press in the absence of the appellant. The appellant's behaviour at the time of the search of his premises suggests that he was really unaware of the publication. It may also be noted that it is in evidence that a pro-government newspaper is being published at the appellant's press.

Taking into consideration all the facts stated above, I hold that the 'intention' requisite for the offence under section 124-A, Indian Penal Code, has not been established in this case. I accordingly accept the appeal and acquit the appellant. The fine, if paid, will be refunded.

A. N. C.

Appeal accepted.

(1) (1908) I. L. R. 35 Cal. 945. (2) (1929) 30 Cr. L. J. 201.